From: Nathanael Nerode
To: mdove@fec.gov
Subject: Public Comment on Draft Advisory Opinion 2007-31
Date: 12/10/2007 10:22 PM

Dear Federal Election Commission:

Draft Advisory Opinion 2007-31 is a poor idea. It may (or may not) follow the letter of the law, but it violates its spirit.

ActBlue exists solely as a device to make it easy for candidates to receive direct contributions. I contribute to candidates via ActBlue because it is a straightforward and reliable service; if it did not exist, I would contribute on the candidates' individual websites, but that would require navigating a different layout and different forms for every candidate.

ActBlue is *functionally* merely a service for payment processing, provided to Democratic candidates and committees. It has no agenda except that of supporting
Democrats, and that agenda is expressed solely by its choice to offer these services to Democrats only; not in any other manner.

The fact that it is legally structured as a PAC should have no impact on this.

The overly literalistic interpretation provided in the draft opinion is counterintuitive, and if followed to its logical conclusion, would prohibit all credit card contributions from being matched.

After all, the Matching Payment Act defines a matchable contribution as "a gift of money made by a written instrument which identifies the person making the contribution by full name and mailing address". Credit card contributions made online are *not made by written instruments*. Credit card contributions made offline feature paper receipts -- which rarely if ever contain a mailing address.

Credit card payments are also, in actual fact, paid from the general accounts of the credit card issuer, usually a large corporation, not out of personal or individual accounts at all! The personal account of the cardholder is then charged by the corporation, which asks the individual to repay the corporation. If the individual does not pay, the corporation is still out the money to the recipient; it has no legal ground to retrieve the money from the recipients.

In actual fact, credit card payments appear to violate the letter of the law in a
far more flagrant way than ActBlue does.

Apparently the Commission has not seen fit to draw that conclusion, which would prohibit *all* credit card contributions from qualifying for matching
funds.

Given that a literal reading of the act is absurd and inappropriate, the Commission should adhere to the spirit and intent of the law, and treat contributions via ActBlue just as they treat contributions through a credit card processor.

The law was written to prevent donor coercion and abuse of earmarking. The

regulations should address the actual behavior and structure of a pass-through entity, and whether it shows a potential for coercing donors (as corporate or union political fundraising does) or does not show such potential (as ActBlue's system and credit card processors do not).

Thank you for your attention.

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